

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3946 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

KAKUSINH SURAJISINH THAKOR DABHI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 02/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 30th October, 1998, made by the District Magistrate, Banaskantha, under the powers conferred upon him under sub-section (1) of section 3 of the Gujarat

Prevention of Anti Social Activities Act, 1985
(hereinafter referred to as 'the Act').

It is alleged that the petitioner is a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are detrimental to the maintenance of public order. It is submitted that the impugned order of detention has no nexus with the offences registered against the petitioner. It is contended that the last of the offences was registered against the petitioner on 12th February, 1998, and the statements of the witnesses were recorded in the month of July, 1998. However, for a long time thereafter the impugned order was not made. The action taken against the petitioner on 30th October, 1998, is thus grossly belated for the offence registered in the month of February, 1998 and before. The aforesaid delay has not been explained by the Detaining Authority. In absence of a valid explanation, in view of the prevailing judicial pronouncements, the continued detention of the petitioner is not warranted.

Petition is, therefore, allowed. The impugned order dated 30th October, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI